

APPLICANT(S): MAGAL, Yosef
SERIAL NO.: 10/512,042
FILED: October 21, 2004
Page 2

REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1-4 are pending.

Claims 1-4 have been rejected.

CLAIM REJECTIONS

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 1-4 under 35 U.S.C. § 103(a), as being unpatentable over Middleman et al. (US 4,379,220) in view of Phillips et al. (US 4,539,468). Applicant respectfully traverses this rejection in view of the remarks that follow.

Middleman et al. disclose a heater for heating liquids such as water in an aquarium. The heater comprises "temperature limiting means such as a circuit protection device (12) is connected in series with a heating element (14) and means for regulating the heating element for controlling the aquarium water temperature. The regulating means can be a bi-metal thermostat (16) which is set by means of a knurled knob (17) to open when the temperature of the air around it exceeds a temperature in the range of 25°C to 45°C" (column 3, lines 34-42).

Phillips et al. disclose an electric immersion heating element dry switch-on or boil dry protector unit for an electrically heated water boiling vessel comprises primary and secondary bimetals (31, 32) responsive to the heating element head temperature and each arranged for

APPLICANT(S): MAGAL, Yosef
SERIAL NO.: 10/512,042
FILED: October 21, 2004
Page 3

actuating a respective one of primary and secondary switching contacts (11, 12) connected in the line and neutral sides of the heating element supply via respective push rods (38, 44). The secondary bimetal (32) is arranged to break later than the primary bimetal (31) in a dry switch-on or boil dry situation giving rise to excessive element temperatures, and to reset before the primary in a reducing temperature situation. The secondary bimetal (32) and associated switch contacts (12) provide back-up protection in the event of failure of the primary protection on account for example of welding of the primary switch contacts (11) (Abstract).

Neither Middleman et al. nor Phillips et al., alone or in combination, teach or suggest at least:

...a first bimetal device being arranged for thermal at least indirect contact with water being heated and being supported by said structure, said first bimetal device comprising of a first pair of components made of materials different in the coefficient of linear thermal expansion, said first pair of components comprising a tubular component and a rod component projecting from said tubular component into said structure to open said first switch when said first bimetal device reaches a first temperature; and a second bimetal device comprising of a second pair of components installed inside said tubular component of said first pair of components, wherein said second pair of components being made of materials different in their coefficient of linear thermal expansion, one of said second pair of components also projecting into said structure to open said second switch if said second bimetal device reaches a second temperature higher than said first temperature due to failure of said first bimetal device to open said first electric switch, wherein said thermostat is installed within said boiler (emphasis added).

as recited in independent claim 1.

Applicant asserts that neither Middleman et al nor Phillips et al, alone or in combination, teach or suggest, and the Examiner does not assert that Middleman et al or Phillips et al teach or suggest "...a second bi-metal device comprising of a second pair of components installed inside said tubular component of said first pair of components.". The installation of the second bi-metal device inside the first bi-metal device is novel in the way it is recited in claim 1. Moreover, such inclusion of a second bi-metal device inside a first bi-metal device enables to overcome the technological problem related to the standard diameter of a hole made for the insertion of immersed thermostats in industrial boilers which is 1/4" (or 6.5 mm). In order to overcome the problem of the limited space/diameter inside a 1/4" tube, the inventor has installed a second bi-metal device inside the first bi-metal device. As was explained above, none of the cited prior art references, alone or in combination,

APPLICANT(S): MAGAL, Yosef
SERIAL NO.: 10/512,042
FILED: October 21, 2004
Page 4

discloses at least this feature. Thus, it would not have been obvious to modify Middleman et al. by Phillips et al. to include at least the elements of claim 1 emphasized above in or in Phillips et al.

An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). Since Middleman et al. or Phillips et al., alone or in combination, do not teach or suggest all the elements of independent claim 1, the Examiner fails to establish a *prima facie* showing that Middleman et al. or Phillips et al., alone or in combination, teach or suggest every feature of claim 1.

Accordingly, Applicant respectfully asserts that independent claim 1 is allowable. Claims 2-4 depend from, directly or indirectly, claim 1, and therefore include all the limitations of that claim. Therefore, Applicant respectfully asserts that claims 2-4 are likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections to independent claim 1, and to claims 2-4 dependent thereon.

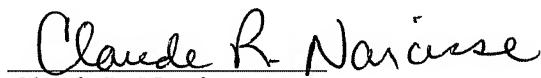
In view of the foregoing remark, Applicant asserts that the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested.

APPLICANT(S): MAGAL, Yosef
SERIAL NO.: 10/512,042
FILED: October 21, 2004
Page 5

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,


Claude R. Narcisse
Claude R. Narcisse
Attorney/Agent for Applicant(s)
Registration No. 38,979

Dated: February 23, 2009

Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, New York, 10036
Tel: (646) 878-0800
Fax: (646) 878-0801